

Message Text

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TO SECSTATE WASHDC 4395

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PASS AID

E.O. 11652: N/A

TAGS: EFIN, PK,

SUBJ: RUPEE AVAILABILITY FOR SECTION 104(J), PL-480

REF: STATE 041415

SUMMARY: MISSION REQUESTS MORE DETAILED EXPLANATION OF
LEGAL AND POLICY BASIS UNDERLYING SECTION 104(J) SALES
CUTOFF. END SUMMARY.

1. PRIOR TO TERMINATION 104(J) SALES, MISSION WOULD
LIKE TO BE ASSURED THAT CONCLUSION THAT NO FURTHER 104(J)
SALES ARE AUTHORIZED IS CORRECT. EVEN IF PL-480 ORIGINAL
GENERATIONS EARMARKED FOR 104(J) HAVE BEEN COMPLETELY
USED, WE BELIEVE THE QUESTION WHETHER LOAN REPAYMENTS CAN
BE USED FOR 104(J) PURPOSES SHOULD BE EXPLORED. (SEE PARA
4 BELOW).

2. THERE IS A STRONG U.S. POLICY TO USE PL 480 LOCAL
CURRENCIES FOR SECTION 104(J) PURPOSES. SECTION 4 OF THE
PRESIDENT'S EXECUTIVE ORDER 10900 STATES IN PART QTE
EXCEPT AS MAY BE INCONSISTENT WITH SUCH LAW OR
AGREEMENTS, PRIORITY SHALL BE ACCORDED TO THE SALE OF
FOREIGN CURRENCIES ACCRUING UNDER TITLE 1 OF PL 480 TO
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APPROPRIATIONS OR TO THEIR SALE OTHERWISE FOR DOLLARS UNQTE.

3. ON THE OTHER HAND, THERE IS THE COMPANION POLICY, ALSO RECOGNIZED IN THE EXECUTIVE ORDER QUOTED ABOVE, THAT WE MUST BE SCRUPULOUS IN CARRYING OUT OUR OBLIGATIONS IN AGREEMENTS WITH HOST GOVERNMENTS. IF OUR AGREEMENTS WITH THE GOP, REASONABLY INTERPRETED, PREVENT THE FURTHER SALE OF RUPEES FOR 104(J) PURPOSES, THEN THE SALES CUTOFF SHOULD BE ENFORCED.

4. IN LIGHT OF THE ABOVE WE WOULD APPRECIATE CONFIRMATION THAT THE FOLLOWING TWO POINTS WERE CONSIDERED IN REACHING DECISION:

(A) AVAILABILITY OF LOAN REPAYMENTS FOR 104(J) PURPOSES. SINCE SECTION 104 OF THE LAW IS CLEAR THAT LOAN REPAYMENTS CAN BE USED FOR 104(J), THE ISSUE THEN IS WHETHER THERE IS ANYTHING IN LOCAL CURRENCY LOAN AGREEMENTS (PRINCIPALLY 104(F)) THAT WOULD REQUIRE A CONTRARY CONCLUSION. THIS REQUIRES A CAREFUL REVIEW OF THE WORDING OF EACH LOAN AGREEMENT. THE INCOMPLETE MATERIALS AVAILABLE IN OUR FILES REVEAL SOME LANGUAGE WHICH COULD BE USED TO SUPPORT EITHER CONCLUSION, WE WOULD APPRECIATE A DEFINITIVE ANALYSIS FROM THE DEPARTMENT.

(B) THE POSSIBLE AVAILABILITY OF ANY ORIGINAL GENERATION RUPEES FOR 104(J) PURPOSES IN ADDITION TO THOSE PROVIDED BY AGREEMENTS MENTIONED REFTEL. OMITTED IN LISTING OF AGREEMENTS WAS AUGUST 6, 1971 AMENDMENT OF WHICH DOLS 13.8 MILLION WERE DISBURSED. SEVEN PER CENT OF LOCAL CURRENCY ORIGINAL GENERATIONS WERE RESERVED FOR QUOTE UNITED STATES EXPENDITURES UNQUOTE. PARAGRAPH 8 OF NOVEMBER 25, 1970 LOCAL CURRENCY ANNEX, INCORPORATED BY REFERENCE IN 8/6/71 AMENDMENT, STATES QUOTE ANY PERCENTAGE OF THE LOCAL CURRENCY INDICATED FOR UNITED STATES EXPENDITURES MAY BE MADE AVAILABLE BY U.S. GOVERNMENT FOR EXPENDITURE UNDER ANY SUBSECTION OF SECTION 104 OF THE ACT...SUCH EXPENDITURES SHALL INCLUDE, AMONG OTHERS, THOSE AUTHORIZED BY SECTION 104(J) OF THE ACT....UNQUOTE. CAN DEPT VERIFY THE STATUS OF ORIGINAL GENERATION RUPEES UNDER THE AUGUST 6, 1971 AMENDMENT? WOULD ANY OF THE ORIGINAL GENERATION RUPEES EARMARKED FOR US UNCLASSIFIED

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EXPENDITURES UNDER OTHER PL-480 AGREEMENTS (THOSE MENTIONED IN REFTEL OR POSSIBLE EARLIER ONES) BE AVAILABLE FOR 104(J) SALES?

5. WE SHOULD BE SURE THAT ELIMINATING 104(J) USE IS LEGALLY REQUIRED BEFORE THE ACTION IS TAKEN. THE PURPOSE OF THIS MESSAGE IS TO ENSURE THAT THE ISSUE HAS BEEN FULLY RESEARCHED.

6. ASSUME DISCONTINUATION OF 104(J) SALES WOULD NOT AFFECT
CURRENT PRACTICE OF SALE OF LOCAL CURRENCY FOR DOLLARS UNDER
SECTION 104(A) TO U.S. GOVERNMENT EMPLOYEES AND INDIVIDUALS
AND ORGANIZATIONS FINANCED BY USG.

7. PLEASE ADVISE.
BYROADE

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